

Payments for Certain Healthcare Arrangements are Tax Deductible

June 16, 2020

The IRS recently issued proposed regulations that address the treatment of amounts paid by an individual for a direct primary care arrangement or a health care sharing ministry (collectively, the **Arrangements**) as being tax-deductible medical care expenses under Section 213 of the Internal Revenue Code (the **Code**). Under the proposed regulations, a direct primary care arrangement (**DPC Arrangement**) is defined as a contract between the individual and one or more primary care physicians pursuant to which the physician(s) agree to provide medical care for a fixed annual or periodic fee without billing a third party. A health care sharing ministry (**Sharing Ministry**) is defined as a tax-exempt organization under Section 501(c)(3) of the Code that meets specified requirements, including that its members share a common set of ethical or religious beliefs and share medical expenses in accordance with those beliefs. [HSAs and the Arrangements](#). The preamble to the proposed regulations confirms that an individual's participation in a DPC Arrangement would generally compromise his eligibility to participate in a health savings account under Section 223 of the Code (**HSA**) during the same period, unless the DPC Arrangement solely provides for (i) an anticipated course of specified treatments of an identified condition or (ii) disregarded or preventive coverage for HSA eligibility purposes (e.g., it solely provides for an annual physical examination). In addition, if an employer pays the fee for the DPC arrangement, such payment arrangement would be a group health plan that potentially disqualifies the individual from HSA participation. The preamble to the proposed regulations further confirms that, because payments for Sharing Ministries would constitute medical insurance under Section 213, an individual's participation in a Sharing Ministry would prohibit his eligibility to participate in a HSA during the same period. [HRAs and the Arrangements](#). According to the preamble to the proposed regulations, in general, a health reimbursement arrangement (**HRA**) may provide reimbursements for DPC Arrangement fees and fees for membership in a Sharing Ministry. Employers that sponsor HRAs should note, however, that for purposes of compliance with the Affordable Care Act (the **ACA**), most HRAs that cover active employees must be integrated with other coverage that meets the ACA's mandates (e.g., the requirement to provide certain preventive care without cost sharing) and may also be limited to the reimbursement of expenses related to that integrated coverage in certain circumstances. [Health Flexible Spending Accounts](#). The proposed regulations do not address the ability to reimburse payments for DPC Arrangements and Sharing Ministries under an employer-sponsored health flexible spending account. [Applicability Date](#). The proposed regulations are proposed to apply for taxable years that begin on or after the date of their publication as final regulations. The proposed regulations are available [here](#).